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OFFICE OF PETITIONS

In re Application of :
Stephen J. Elledge and Yolanda Sanchez :
Application No. 09/488,364 :
Filed: January 12, 2000 :
Attorney Docket No. 120541-1003 :
Title: MAMMALIAN CHECKPOINT :
GENES AND PROTEINS :

DECISION ON PETITION

This is a decision on the petition filed on December 12, 2001, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The above-identified application matured into patent number 6,307,015 on October 23, 2001. The petitioner states that "the above-identified application became abandoned for failure to prosecute because Applicant's representative unintentionally failed to file a reply to the Notice of Allowance"², but such is not the case. On May 29, 2001, a Notice of Allowance and Issue Fee Due was mailed to petitioner, setting a three-month period for reply. On August 23, 2001, the issue fee was received in a timely manner. Hence, this application was never abandoned.

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² Petition, page 1.

Petitioner further states that a divisional application was filed (application number 10/020,038, filed on December 12, 2001), claiming priority to 09/488,364. The instant petition was filed so as to establish continuity between the two applications. However, as application number 10/020,038 was filed after 09/488,364 had already matured into patent number 6,307,015, **continuity cannot be established.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Receipt of the associate power of attorney and change of address is acknowledged.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy